

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ALLIANCE FOR AUTOMOTIVE
INNOVATION

Plaintiff,

vs.

MAURA HEALEY, ATTORNEY GENERAL
OF THE COMMONWEALTH OF
MASSACHUSETTS in her official capacity,

Defendant.

C.A. No. 1:20-cv-12090-DPW

STATUS REPORT OF ALLIANCE FOR AUTOMOTIVE INNOVATION

Plaintiff Alliance for Automotive Innovation (“Auto Innovators”) hereby submits this Status Report regarding the discovery issues raised at the Court’s October 28, 2021 hearing in this matter.

Auto Innovators and Defendant Maura Healey, Attorney General of the Commonwealth (the “Attorney General”) have had productive discussions regarding the scope of any additional discovery in light of both the Subaru-related issues raised in the Attorney General’s Motion to Reopen Trial Evidence and the additional information requested of Auto Innovators at the October 28 hearing concerning “what various association members are going to do” with respect to telematics systems in their respective Model Year 2022 vehicles. ECF #254 at 8:8-13.

Subaru-Related Issues

The Attorney General and Auto Innovators are working toward a stipulation of additional facts that would address the Subaru-related issues that were raised and discussed. Auto Innovators currently anticipates that such a stipulation, if one satisfactory to both parties can be reached, could be submitted to the Court by November 9, 2021.

In the event that a stipulation satisfactory to both parties cannot be reached, the Attorney General proposes to conduct discovery by serving her “Fourth Set of Requests for Production to Plaintiff Alliance for Automotive Innovation” and deposition notices to Subaru of America Inc. and/or Subaru of New England, Inc. Auto Innovators did not receive a copy of the Attorney General’s proposed Requests for Production and deposition notices until this afternoon, so has not had the opportunity to consider the proposed requests and notices, including any objections it, Subaru of America, or Subaru of New England may have to such requests and notices. However, Auto Innovators is hopeful the stipulation will avoid the need for this discovery and, if not, is committed to promptly resolving and addressing any disputes regarding the scope of relevant discovery, and will seek relief from the Court to address any unresolved issues as appropriate.

Information Requested of Auto Innovators

With regard to additional information requested from Auto Innovators, the Attorney General has proposed to serve her proposed “Third Set of Interrogatories to Plaintiff Alliance for Automotive Innovation.” Auto Innovators also did not receive a copy of the Attorney General’s proposed Third Set of Interrogatories until this afternoon, and it has not had the opportunity to consider the proposed interrogatories, including any objections it may have to such interrogatories. Moreover, contrary to the Attorney General’s assertion, Auto Innovators has not agreed to respond to the Third Set of Interrogatories within fifteen days, but will certainly endeavor to do so as quickly as feasible. Nevertheless, Auto Innovators agrees that targeted interrogatories addressing whether its members plan to disable telematics units in Model Year 2022 vehicles may be appropriate to resolve the issues raised at the October 28 hearing. Auto Innovators is committed to promptly resolving and addressing any disputes regarding the scope of the Attorney General’s

interrogatories, and will seek relief from the Court to address any unresolved disputes as appropriate.

Additional Items

Auto Innovators reserves the right to pursue discovery from the Attorney General regarding the issues raised in their Motion to Reopen Trial Evidence.

Additionally, Auto Innovators agrees with the Attorney General's request that the Court permit the parties to submit a supplemental brief and status report within ten days of completion of supplemental discovery on these issues stating the parties' positions on these issues.

Respectfully submitted,

PLAINTIFF ALLIANCE FOR
AUTOMOTIVE INNOVATION,

By its attorneys,

/s/ Laurence A. Schoen

Laurence A. Schoen, BBO # 633002
Elissa Flynn-Poppey, BBO# 647189
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY, AND POPEO, P.C.
One Financial Center
Boston, MA 02111
Tel: (617) 542-6000
lschoen@mintz.com
eflynn-poppey@mintz.com
annathanson@mintz.com

John Nadolenco (pro hac vice)
Erika Z. Jones (pro hac vice)
Jason D. Linder (pro hac vice)
Daniel D. Queen (pro hac vice)
Eric A. White (pro hac vice)
MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
Tel: (202) 263-3000
jnadolenco@mayerbrown.com
ejones@mayerbrown.com
jlinder@mayerbrown.com
dqueen@mayerbrown.com
eawhite@mayerbrown.com

Charles H. Haake (pro hac vice)
Jessica L. Simmons (pro hac vice)
ALLIANCE FOR AUTOMOTIVE
INNOVATION
1050 K Street, NW
Suite 650
Washington, DC 20001
Tel: (202) 326-5500
chaake@autosinnovate.org
jsimmons@autosinnovate.org

CERTIFICATE OF SERVICE

I certify that on November 3, 2021, a true copy of this document will be sent electronically by the ECF system to attorneys of record identified on the Notice of Electronic Filing.

/s/ Laurence A. Schoen
Laurence A. Schoen